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Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

League of Women Voters of Arizona; Mi  
 Familia Vota Education Fund; and Promise  
 Arizona, on behalf of themselves, their  
 members, and all others similarly situated,

Plaintiffs,

vs.

Michele Reagan, in her official capacity as  
 Secretary of State for the State of Arizona,

Defendant.

No. CV-18-02620-PHX-JAT

JOINT PRE-HEARING  
 STATEMENT

Pursuant to the Court's Order Setting Preliminary Injunction Hearing issued on  
 August 22, 2018, the parties, through undersigned counsel, respectfully submit this Joint Pre-  
 Hearing Statement.

**A. Counsel For The Parties.**

**Plaintiffs:**

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**B. Statement Of Jurisdiction.**

The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343; 52 U.S.C. § 20510(b)(2). The Court has personal jurisdiction over Defendant because Plaintiffs sue Defendant in her official capacity as an elected official of Arizona in which she resides. This Court has jurisdiction to grant both declaratory and injunctive relief under 28 U.S.C. §§ 2201, 2202; 52 U.S.C. § 20510(b)(2); Fed. R. Civ. P. 65. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2). Jurisdiction is not

1 disputed.

2 **C. List Of Witnesses.**

3 **Plaintiffs:**

4 **1. Witnesses Who *Shall* be Called at the Hearing.**

- 5 a. Robyn Prud'homme-Bauer  
 6 c/o Bryan Cave Leighton Paisner LLP  
 7 Two North Central Avenue, Suite 2100  
 8 Phoenix, Arizona 85004-4406

9 Ms. Prud'homme-Bauer is a fact witness. Ms. Prud'homme-Bauer is the Co-  
 10 President of Plaintiff League of Women Voters of Arizona (the "League"). She is expected  
 11 to testify regarding the factual allegations in Plaintiffs' Complaint that relate to the League.  
 12 She also is expected to testify regarding the matters set forth in her declaration in support of  
 13 Plaintiffs' Motion for Preliminary Injunction, which includes, for example, the League's  
 14 background, membership, purpose, programing, activities, voter registration efforts, and  
 15 diversion of resources.

- 16 b. Eric Spencer  
 17 c/o Hinshaw & Culbertson LLP  
 18 2375 East Camelback Road, Suite 750  
 19 Phoenix, Arizona 85016

20 Mr. Spencer is a fact witness. If, and to the extent he is found by the Court to be a  
 21 qualified as an expert, Plaintiffs reserve the right to elicit expert testimony from him as well.  
 22 Mr. Spencer is expected to testify regarding the items listed in Defendant's list of witnesses.  
 23 *See* page 6, line 27 to page 7, line 4 of the Joint Pre-Hearing Statement.

- 24 c. Eric Jorgensen  
 25 c/o Joseph Kanefield  
 26 Ballard Spahr  
 27 1 East Washington Street, Suite 2300  
 28 Phoenix, Arizona 85004-2555

Mr. Jorgensen is a fact witness. Mr. Jorgensen is expected to testify regarding the  
 items listed in Defendant's list of witnesses. *See* page 6, line 27 to page 7, line 4 of the Joint  
 Pre-Hearing Statement.

**2. Witnesses Who *May* be Called at the Hearing.**

- a. Julie M. Birk  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Ms. Birk is a fact witness. Ms. Birk may testify regarding the declaration of counsel in support of Plaintiffs' Motion for Preliminary Injunction.

- b. Petra Falcon  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Ms. Falcon is a fact witness. Ms. Falcon is the Executive Director of Defendant Promise Arizona. She may testify regarding the factual allegations in Plaintiffs' Complaint that relate to Promise Arizona. She also may testify regarding the matters set forth in her declaration in support of Plaintiffs' Motion for Preliminary Injunction, which includes, for example, Promise Arizona's background, membership, purpose, programming, voter registration efforts, and diversion of resources.

- c. Cindy Hans  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Ms. Hans is a fact witness. Ms. Han is a member of Plaintiff League of Women Voters of Arizona. She may testify regarding the matters set forth in her September 6, 2018 Declaration.

- d. Khalil Rushdan  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Mr. Rushdan is a fact witness. Mr. Rushdan is a member of Plaintiff League of Women Voters of Arizona. He may testify regarding the matters set forth in his declaration in support of Reply in Support of Plaintiffs' Motion for Preliminary Injunction.

e. Eduardo Sainz  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Mr. Sainz is a fact witness. Mr. Sainz is the State Director for Plaintiff Mi Familia Vota Arizona (“Mi Familia”). He may testify regarding the factual allegations in Plaintiffs’ Complaint that relate to Mi Familia. He also may testify regarding the matters set forth in his declaration in support of Plaintiffs’ Motion for Preliminary Injunction, which includes, for example, Mi Familia’s background, membership, purpose, services, voter registration efforts, and diversion of resources.

f. Paul Wade  
c/o Bryan Cave Leighton Paisner LLP  
Two North Central Avenue, Suite 2100  
Phoenix, Arizona 85004-4406

Mr. Wade is a fact witness. Mr. Wade is a member of Plaintiff League of Women Voters of Arizona. He may testify regarding the matters set forth in his declaration in support of Reply in Support of Plaintiffs’ Motion for Preliminary Injunction.

### 3. Witnesses Who Are *Unlikely* to be Called at the Hearing.

a. N/A.

#### **Defendant:**

### 1. Witnesses Who *Shall* be Called at the Hearing.

a. Eric Spencer  
c/o Hinshaw & Culbertson LLP  
2375 East Camelback Road, Suite 750  
Phoenix, Arizona 85016

Mr. Spencer is a fact and expert witness. Mr. Spencer is the Elections Services Director and is expected to testify regarding the records that are kept by the Secretary of State, and the efforts currently taken by the Secretary of State along with the County Recorders and the Arizona Department of Transportation to maintain up to date voter registration records. He will testify as to the cost and effort involved in the proposed mailing requested by the Plaintiffs and the system by which Provisional ballots are counted. He will

1 further testify if necessary regarding the efforts of the Secretary to update the computer  
 2 system to accommodate the changes demanded by the Plaintiffs and to any other matters the  
 3 court deems relevant regarding the operation of elections in this state.

4                   b.     Eric Jorgensen  
 5                         c/o Joseph Kanefield  
 6                         Ballard Spahr  
                           1 East Washington Street, Suite 2300  
                           Phoenix, Arizona 85004-2555

7           Mr. Jorgensen is a fact witness. Mr. Jorgensen is a Director at the Motor Vehicles  
 8 Department (ADOT) and is expected to testify regarding the options that have been provided  
 9 voters to update their residential and mailing addresses when updating those addresses with  
 10 the MVD. Mr. Jorgensen may also testify regarding the records maintained by the Arizona  
 11 Department of Transportation.

12                   **2.     Witnesses Who *May* be Called at the Hearing.**

13                   a.     Leslie Hoffman or other Representative from a County  
 14                         Recorder's Office  
                           c/o Hinshaw & Culbertson LLP  
                           2375 East Camelback Road, Suite 750  
 15                         Phoenix, Arizona 85016

16           Defendant may call Ms. Hoffman but is currently attempting to identify a closer  
 17 County Recorder or a suitable employee of a County Recorder that can testify regarding any  
 18 factual issues not covered by Mr. Spencer. This individual may testify regarding the process  
 19 of counting provisional ballots and the effort needed to identify and vote those ballots as well  
 20 as efforts to maintain up-to-date voting records.

21                   **3.     Witnesses Who Are *Unlikely* to be Called at the Hearing.**

22                   a.     None currently identified.

23           Each party understands that it is responsible for ensuring that the witnesses it wishes  
 24 to call to testify are subpoenaed. Each party further understands that any witness a party  
 25 wishes to call shall be listed on that party's list of witnesses above and that party cannot rely  
 26 on that witness having been listed or subpoenaed by another party.

27           The parties respectfully submit that they have agreed that to the extent one party calls  
 28 a witness the other party may examine that witness without the need for a subpoena.

The parties respectfully submit that they also have agreed, for the sake of efficiency and respect for the Court's time, that each witness need only be called to testify one time, and to facilitate this the parties have agreed that during this testimony each party can proceed with both direct and cross.

**D. List of Exhibits.**

**1. The Following Exhibits Are Admissible in Evidence and May be Marked in Evidence by the Clerk.**

a. Plaintiffs' Exhibits:

1. November 14, 2017 Correspondence from Plaintiffs to Defendant.
2. August 14, 2018 Interim Memorandum of Understanding between Plaintiffs and ADOT/MVD, Arizona Department of Economic Security, and Arizona Health Care Cost Containment System.
3. Arizona Department of Transportation Driver License/Identification Card Application, Form 40-5122 R04/16.
4. Arizona Department of Transportation Driver License/Identification Card Application, Form 40-5122 R01/18.
5. Arizona Department of Transportation Duplicate/Credential Update Application, Form 40-5145 R07/16.
6. August 16, 2018 Press Release issued by Michele Reagan, in her official capacity as Secretary of State for the State of Arizona.
7. Screen shots of the Service AZ website.
8. Declaration of Robyn Prud'homme-Bauer.
9. Declaration of Eduardo Sainz.
10. Declaration of Petra Falcon.
11. Declaration of League of Women Voters of Arizona member Paul Wade.
12. Declaration of League of Women Voters of Arizona member Khalil Rushdan.
13. Declaration of League of Women Voters of Arizona member Cindy Hans.



b. Defendant's Exhibits:

21. State of Arizona Elections Procedures Manual (rev. 2014).
22. State of Arizona Elections Procedures Manual (2018 edition).
23. Voter Registration, Voter Turn-out, and Out-of Precinct Voting in Arizona Presidential Elections (2008-2016).
24. Ballots cast for general presidential elections and mid-term general elections in the state of Arizona.
25. Registered voters and ballots cast for general presidential elections and mid-term general elections for Maricopa County.
26. Registered voters and ballots cast for general presidential elections and mid-term general elections for Pima County.
27. Out-of-Precinct (OOP) ballots cast in the State of Arizona.
28. Out-of-Precinct (OOP) ballots cast in Maricopa County.
29. Out-of-Precinct (OOP) ballots cast in Pima County.
30. Letters to voters (form).
31. Affidavit of Leslie M. Hoffman.

Without waiving objections, the parties reserve the right to use or refer to exhibits identified by one another.

The parties agree that the above exhibits are admissible for purposes of the Preliminary Injunction Hearing but not for trial.

**2. As to the Following Exhibits, the Parties Have Reached the Following Stipulations.**

- a. Plaintiffs' Exhibits: All admissible.
- b. Defendant's Exhibits: All admissible.

**3. As to the Following Exhibits, the Parties Against Whom the Exhibit is to Be Offered Objects to the Admission of the Exhibit and Offers the Objection Stated Below.**

- a. Plaintiffs' Exhibits: N/A.
- b. Defendant's Exhibits: N/A.

Each party hereby acknowledges by signing this *joint* pre-hearing statement that any objections not specifically raised herein are waived.



**E. Depositions To Be Offered.**

N/A.

Each party hereby acknowledges by signing this *joint* pre-hearing statement that any deposition not listed as provide herein will not be allowed, absent good cause.

**F. Estimated Length Of Hearing.**

Three hours.

DATED this 6th day of September, 2018.

BRYAN CAVE LEIGHTON PAISNER LLP HINSHAW & CULBERTSON LLP

By s/ Lawrence G. Scarborough

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By s/ Stephen W. Tully (with permission)

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6 *practice limited pursuant to D.C. App. R.*  
7 *49(c)(3).*

8 Attorneys for Plaintiffs

9 Filed electronically with the Court and  
served on parties of record by the Court's  
10 CM/ECF system this 6th day of September,  
2018.

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12 s/ Mary Ann Villa  
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